

JUN 26 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

SAMUEL EUGENE ABRAHAM,

Petitioner - Appellant,

v.

E. K. MCDANIEL et al.,

Respondents - Appellees.

No. 05-16442

D.C. Nos. CV-02-00512-LRH
(RAM)

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Larry R. Hicks, District Judge, Presiding

Argued and Submitted June 13, 2006
San Francisco, California

Before: SCHROEDER, Chief Judge, GRABER, Circuit Judge, and
HOLLAND,** District Judge.

Petitioner Samuel Eugene Abraham was convicted in Nevada of one count of first-degree kidnapping with use of a deadly weapon and six counts of sexual assault with use of a deadly weapon. We review de novo the district court's denial

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The Honorable H. Russel Holland, Senior United States District Judge for the District of Alaska, sitting by designation.

of his petition for a writ of habeas corpus. Wade v. Terhune, 202 F.3d 1190, 1194 (9th Cir. 2000). We may not grant the writ unless the state court made a decision that was "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States." 28 U.S.C. § 2254(d).

Petitioner claims that the state court denied him the constitutional right to self-representation, in violation of Faretta v. California, 422 U.S. 806 (1975). But his first unequivocal request to represent himself was heard by the court five days before trial, and it was accompanied by a request for a three-month continuance. The Nevada Supreme Court's decision that Petitioner's request was untimely and was intended to cause delay was neither unreasonable nor contrary to federal law. See Hirschfield v. Payne, 420 F.3d 922, 926 (9th Cir. 2005) (holding that imposition of timeliness requirement is not contrary to federal law); United States v. Arlt, 41 F.3d 516, 519 (9th Cir. 1994) (holding that a request to proceed pro se must be timely and may not be made for the purpose of delay).

The additional issues briefed by Petitioner do not meet the standard for issuance of a certificate of appealability, so we will not address them. 28 U.S.C. § 2253(c).

AFFIRMED.